

THE RECORD OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

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THE RECORD is published at the House of the Association, 42 West 44th Street, New York, 18.

Volume 4

March 1949

Number 3

Association Activities

THE COMMITTEE ON Medical Jurisprudence, George H. Sibley, Chairman, entertained at dinner at the House of the Association members of The New York Academy of Medicine and the Medical Society of the County of New York who have been appointed to cooperate with the Association's Committee. Among other matters discussed were the proposed legislation on the rehabilitation of alcoholics, the care of the mentally ill, and suggested changes in the definition of insanity in the criminal law.



A SUBCOMMITTEE of the Committee on Administrative Law is charged with observing and reporting on the operation of the Federal Administrative Procedure Act and making recommendations from time to time with regard to the Act. As a part of this task the subcommittee is attempting to analyze all reported decisions in which the Federal Administrative Procedure Act has been a factor. In addition to this, however, the subcommittee would like to have advice from the members of the Association as to experiences which they may have had or views which they entertain with regard to the Federal Administrative Procedure Act.

The members are, therefore, urged to report any experiences or views, either in the past or in the future, to the Committee on Administrative Law, 42 West 44th Street, New York 18.



ON FEBRUARY 26 the Entertainment Committee, Judge James Garrett Wallace, Chairman, presented a musicale featuring The Lawyers String Quartet, consisting of Emanuel Green, Milton Lomask, Max Weiser, and Maurice Brown, assisted by Milton Rettenberg, pianist, and Martin J. Scheiman, French horn. All the artists are members of the bar. The Chairman of the subcommittee in charge of the musicale was Emanuel Green.



CHIEF JUSTICE ARTHUR T. VANDERBILT, of the Supreme Court of New Jersey, spoke before a large audience on February 8. The Chief Justice spoke informally and described the operation of the new judicial system in New Jersey.



AT THE midwinter meeting of the American Bar Association's Board of Governors, committees representing the Association and the New York County Lawyers' Association presented an invitation to the American Bar Association to hold its Annual Meeting in the City of New York in 1951. The invitation was accepted.



JUDGE SAMUEL I. ROSENMAN, Chairman of the Special Committee on Public and Bar Relations, has scheduled for early in March a meeting of the advisory committee on the in-service training course for teachers which will be sponsored by the Association this fall. The course will consist of fifteen lectures on the place of law in a democratic society. The advisory committee will assist Theodore Fred Kuper, who will act as moderator and acting chairman, to develop the course of lectures. The lecture series has

the cooperation of the Board of Education and the Board of Superintendents.



IN APRIL the Committee on Foreign Law, John N. Hazard, Chairman, will conduct a Forum on foreign trade and, in particular, international agencies affecting foreign trade. The Committee also is assisting in publicizing the provisions for funds under the Fulbright Act which are available to American students who wish to study abroad.



THE COMMITTEE ON LAW REFORM, James N. Vaughan, Chairman, has under study the following subjects: contribution among joint tortfeasors; actions for damages, replevin in cases arising out of pre-marital promises; section 347 C. P. A. re lunatics, etc.; supervisory system of referees on examinations before trial; attachment of life beneficiaries' interests; recognition of foreign divorces; proof of foreign law; trusts: invasion of principal; fire insurance proceeds; revocable trusts; legislative practices; and taxable costs and disbursements.



THE COMMITTEE ON COURTS OF SUPERIOR JURISDICTION, Samuel M. Lane, Chairman, is continuing its study of the motion practice in the United States District Court for the Southern District. Paul A. Crouch, Chairman of the subcommittee in charge of the study, has consulted with judges of the Court and with representatives of the Administrative Office of the United States Courts.



THE FOLLOWING communication from the American Bar Association is published at the request of that Association:

To: The Presidents and Secretaries of all
State and local Bar Associations

Gentlemen:

This letter is sent to you, as one of the leaders of the Bar, so that you may be advised of the position of our Committee with respect to the subject mat-

ter. You are, of course, aware that since 1935 this Committee has functioned in the interest of the public and of the profession to seek the elimination of unauthorized practice of law by laymen. With nearly every group such as banks and trust companies, casualty insurance companies, insurance adjustors, real estate brokers, life insurance underwriters, publishers of law services and law books, collection agencies, etc., meeting with us through their national representatives, we have been able to agree upon the necessary limitations upon their activities whenever these amounted to the practice of law.

Your Committee has refused, and still refuses, to compromise certain principles which relate to the practice of law by certified public accountants in the tax law field. We are convinced that a compromise of these principles by the Bar would be injurious to the public and to the profession and to the administration of the law. We desire you to have a full understanding of the matter, so that we may count upon your support and also obtain the benefit of your comments. This is our excuse for sending you this long communication.

1. When a taxpayer desires to contest, by law, a wrongful assessment, he has an election either to try his case in the Tax Court, or to pay the assessment and obtain the benefits of a jury trial in the United States District Court, or to sue in the Court of Claims. In our opinion, neither a certified or uncertified public accountant is qualified to advise a taxpayer as to his election of legal remedies, and should not be permitted to do so.

2. An appeal to the Tax Court is initiated by a "Petition for Redetermination of Deficiency." This document sets forth the basic grounds of the appeal and limits the trial in that court to those issues. In our opinion, this is a legal pleading which only a lawyer should be permitted to draw and file, and that for an accountant to assume to draw and file it is far beyond the scope of accountancy and amounts to a practice of law.

3. If a taxpayer desires to pay the assessment and make a claim for refund in the District Court or Court of Claims, the statute provides that his "Claim for Refund" must set forth the legal basis therefor. Upon the trial in the court, the proof is limited to the basis set forth in that document. It is our opinion that this document, which fixes and determines the legal rights of the taxpayer in a court thereafter, and which is the first step toward judicial determination which he seeks of his rights, should be drawn and prepared by a lawyer, and that when an accountant assumes to do this he has embarked upon the practice of law.

It is our opinion that there can be no compromise in principle of the proposition that it is not part of the function of certified public accountants, as such, to initiate the processes of the United States courts in the tax field, and that it is against the public interest for taxpayers to be led to believe that certified public accountants are qualified to do so.

Because the United States Treasury admits accountants to practice as agents does not authorize them to practice law. The Treasury, by its own rule, has prohibited this (Rule 10.2f). But accountants claim, as was done in the *Bercu* case, 273 App. Div. 524, 78 N.Y.S. 2d 209, that because they are Treasury agents they are entitled to give legal opinions and render services not related to accounting at all, and to charge therefor, representing themselves to be experts on tax law because they are admitted as agents. Only recently the Tax Court itself has ruled that, merely because a man is ad-

mitted to the Treasury is no proof that he is a tax law expert (*Hermax Co., Inc.*, 11 T.C.—No. 55); and in the *Bercu* case the court refused to find that the admission of accountants to the Treasury authorized them to practice tax law at large.

It is the opinion of this Committee that the time has come, in the public interest, to review the general rules of practice before the Treasury Department.

The public and many lawyers have been led to believe, by the constant publicity that has been put forth on this subject in the interest of accountants, that the Tax Law involves only accounting concepts, and that therefore certified public accountants are the only ones competent to advise. When this argument was presented in the *Bercu* case, the Appellate Court there said:

"One need only thumb through the Internal Revenue Code relating to income taxes, however, or listen to the criticism leveled at the tax laws and decisions by some writers on accountancy, to note the many respects in which tax law is at variance with usual accounting principles."

* * * * *

"It is much too narrow a view, and one revealing inadequate perception, to regard the tax law as mainly a matter of accounting. More than most specialties in the law, tax law is drawn from and involved with many branches of law. It bridges and is intimately connected, for example, with corporation law, partnership law, property law, the law of sales, trusts and frequently constitutional law. Quite obviously, one trained only in accounting, regardless of specific tax knowledge, does not have the orientation even in tax law to qualify as a tax lawyer." (273 App. Div. 524, 78 N.Y.S. 2d 209, 217, 218.)

May we also call your attention to the article entitled "Teamwork in Tax Practice" appearing in the October American Bar Journal, page 870?

Recently, in April, 1948, before a sub-committee of the Senate Judiciary Committee upon hearings on a bill to make the Tax Court a part of the Federal Judiciary, the accountants' societies opposed the bill unless they were allowed to practice generally before that court. At this hearing judges of the Tax Court and the Circuit Court of Appeals testified that such practice was the practice of law and that accountants were not competent to do so.

At the last session of the Congress, your Committee urged the adoption of the "Administrative Practitioners Bill," which was seeking to control and to regulate, to some extent at least, the practice of law by laymen before administrative bureaus. The bill is a necessary complement to the Federal Administrative Procedures Act. This measure also was opposed by the representatives of the accountants' societies.

This Committee is entirely in agreement with the statement made in 1944 by the National Conference of Lawyers & C.P.A.'s that neither lawyers nor accountants "should assume to perform the functions of the other" (69 A.B.R. 189).

Your Committee is of the opinion that, in the matters pointed out above, accountants assume the functions of lawyers and that, except for those few

members of the Bar who, through professional or other business relations with accounting firms are insensitive to the public questions involved, the rank and file of our profession would not support any compromise or concession of the basic principle that it is in the public interest that the practice of law be confined to lawyers.

The undersigned Chairman will be happy to give further details or information relating to the subject discussed, and to receive the benefit of any comments you care to make.

Very truly yours,

Committee on Unauthorized
Practice of Law

John D. Randall, Chairman



AT THE STATED MEETING ON MARCH 8 the Committee on International Law, A. A. Berle, Jr., Chairman, will present a report on the Convention on the Prevention and Punishment of the Crime of Genocide, and the Committee on Arbitration, Joseph W. Landes, Chairman, will report on certain abuses of arbitration in connection with commercial and business rent laws.



ON MARCH 23 the Committee on Aeronautics, Hamilton O. Hale, Chairman, will hold a forum on aviation matters, which will be addressed by The Honorable Joseph J. O'Connell, Jr., Chairman of the Civil Aeronautics Board, Washington, D. C.

The Calendar of The Association for March

(As of February 15, 1949)

March 1 Meeting of Committee on Domestic Relations Court
Dinner Meeting of Committee on Law Reform
Dinner Meeting of Committee on Real Property Law
Meeting of Committee on State Legislation

March 2 Meeting of Committee on City Court
Dinner Meeting of Executive Committee
Joint Meeting of Section on Drafting of Legal Instruments
and Section on Wills, Trusts and Estates

March 3 Address by General Dwight D. Eisenhower. *Buffet Supper, 6:15 P.M.*
Meeting of Committee on the Federal Courts

March 7 Dinner Meeting of Committee on Professional Ethics
Meeting of Committee on Public and Bar Relations

March 8 *Stated Meeting of Association and Buffet Supper—
6:15 P.M.*
Meeting of Committee on International Law
Meeting of Committee on Real Property Law
Meeting of Committee on State Legislation

March 9 Meeting of Section on Corporations
Dinner Meeting of Committee on Foreign Law
Dinner Meeting of Committee on Insurance Law

March 10 Meeting of Section on Taxation

March 14 Meeting of Section on Labor Law

March 15 Dinner Meeting of Committee on Real Property Law
Meeting of Committee on State Legislation
Forum on Socialized Medicine. Auspices Committee on
Medical Jurisprudence
Meeting of Section on Trials and Appeals

March 16 Dinner Meeting of Committee on Administrative Law
Meeting of Committee on Admissions
Meeting of Section on Economics of the Legal Profession

March 17 Meeting of Section on Trade Regulation

March 21 Dinner Meeting of Committee on Federal Legislation
Dinner Meeting of Committee on Municipal Affairs

March 22 Dinner Meeting of Committee on Medical Jurisprudence
Meeting of Committee on Real Property Law
Meeting of Section on State and Federal Procedure
Meeting of Committee on State Legislation

March 23 Aviation Forum. Auspices Committee on Aeronautics

March 28 Round Table Conference. Guest to be announced later
Meeting of Library Committee

March 29 Meeting of Committee on Real Property Law
Meeting of Committee on State Legislation

The Legal Aid and Advice Scheme

By THOMAS G. LUND, C. B. E.

There are five basic principles underlying this Legal Aid and Advice Scheme. They are, first of all, that no person ought to be deprived of legal advice or, if necessary, legal representation before any court in the country by reason only of lack of means. Secondly, that those who can afford to pay nothing should receive their legal aid free, but that those who can afford to contribute something towards their own costs should contribute what they can afford. Thirdly, that the legal services to be provided should be provided by the legal profession, who should receive fair and reasonable remuneration for their services. Fourthly, that the administration of the Scheme should not be by a Department of State or a local authority but should be by the profession itself, acting through The Law Society and responsible to the Lord Chancellor as the head of the legal profession. Finally that, in so far as it is not found from other sources, the cost should be borne by the State.

The idea underlying the Scheme is in accordance with good old English custom that of developing existing institutions. The Scheme is really in three parts, first, legal aid in the civil courts. For that purpose the idea of the Poor Persons Procedure was used and (i) instead of restricting the procedure as in the past to the Supreme Court only, it is proposed that there should be issued certificates for legal aid—Civil Aid Certificates, as they will be called—in all courts in the country; (ii) instead of limiting the help which is given under the Poor Persons Procedure to those

Editor's Note: Because the Legal Aid and Advice Bill introduced in Parliament has provoked great interest among American lawyers and because the provisions of the Bill are not generally understood in this country, THE RECORD has secured permission from Mr. Lund to publish this lecture delivered by him before The Law Society, of which he is the distinguished Secretary. The bill is founded upon the Report of the Rushcliffe Committee which adopted almost entirely in respect to civil cases the Scheme as conceived and prepared by Mr. Lund and put forward by The Law Society.

with incomes not exceeding £4 a week, it is proposed substantially to raise the income limits; (iii) instead of everyone receiving their legal representation free of cost to themselves except for disbursements, they will, as I have said, contribute according to their means, or if they cannot afford anything will get even the disbursements paid for them at the expense of the State; and (iv) instead of the profession not only doing Poor Persons work voluntarily, gratuitously, and in fact at personal expense to themselves, the profession will be reasonably and fairly remunerated for what they do.

Secondly, there is the criminal side—that is, legal aid in criminal courts—and here it is proposed to extend the Poor Prisoners (Defence) Act, 1930, procedure.

Finally, there is the legal advice side of the Scheme under which it is proposed to extend the Poor Man's Lawyer Centre principle, so that there may be a really efficient Poor Man's Lawyer service available throughout the length and breadth of the country.

LEGAL AID

I would like first to deal with legal aid and to dispose immediately of legal aid in the criminal courts. It is proposed there that the administration of the Scheme as regards criminal cases coming before the courts of criminal jurisdiction shall not be in the hands of The Law Society. Instead, the existing machinery will be preserved. There will be legal aid, defence and appeal certificates issued in the same way as they are now, but they will be issued in all classes of cases coming before courts of criminal jurisdiction. What the court has to decide is whether the means of an applicant who applies for such certificates are sufficient to enable him to obtain legal aid without a certificate or not, and whether it appears to be in the interests of justice that he should be given free legal aid. Any doubt on either of those two questions is, by the Bill, to be resolved in favour of the applicant. The certificates will, as hitherto, be granted by the Bench. Application will be made for them to the Clerk to the Justices, and it may be made

in future not only in person but by letter. The costs will no longer fall on the ratepayer; they will fall on the taxpayer, and it is intended that there shall be the fullest publicity given to this side of the Scheme, so that any person charged may know of his rights to be legally represented before courts of criminal jurisdiction.

I would say here that the Council have represented very strongly that it would be in the interests of economy that applicants for any of these certificates in the Criminal Courts should be required to make a declaration having the effect of a statutory declaration in respect of their means, so that if any false statement is made in that the usual penalties may be expected to follow, and there may not be an abuse of the procedure which there might otherwise be. That, at the moment, is all I propose to say on the strictly criminal cases coming before courts of criminal jurisdiction.

I have said that legal aid will be granted in all cases coming before courts of criminal jurisdiction, and that is quite correct, because it will also be granted in quasi-criminal cases such as, for example, maintenance, bastardy and guardianship of infants. But, in that class of case, the certificates will not be legal aid certificates or defence certificates. They will be issued under the civil branch of the Scheme by the organisation to be set up by The Law Society. They will be civil aid certificates, effective in courts of criminal jurisdiction, and what I have to say, therefore, on the subject of legal representation in courts of civil jurisdiction will apply to these quasi-criminal cases in the criminal courts.

As regards civil cases, the Bill itself provides that these civil aid certificates, which are in a way comparable with Poor Persons Certificates, shall be issued in respect of proceedings before any of the following courts, which are set out in Part I of the First Schedule to the Bill. They will be in respect of appeals to the House of Lords from any court in England or Northern Ireland, and appeals to the Privy Council, and of proceedings in the Supreme Court, County Courts, the Chancery Courts of the County Palatine of Lancaster and of Durham, the Mayor's and City of London Court, the Liverpool Court of Passage, the Court of Record for the Hundred of Salford, any Court of Quarter Sessions

and any Court of Summary Jurisdiction. They will also be issued in proceedings which are referred for trial by any of those courts in whole or in part to any person. Certificates will also be issued in respect of proceedings before a coroner, and in proceedings before a sheriff under a Writ of Elegit or a Writ of Enquiry.

Now the Government has decided as a matter of policy, and, I suppose, one might say to avoid what would otherwise become a case of "legal spectacles," that certain classes of action should not be included in the Scheme, at all events, in the beginning, for fear that the machine may be clogged by too many applications, and Part II of the First Schedule of the Bill lists those actions. They include proceedings for defamation, breach of promise of marriage, the loss of services of a woman or girl from seduction or rape, for inducement of a spouse to leave or remain away from another spouse, relator actions, common informer actions, election petitions, and, in the County Court, Judgment Summonses and proceedings in respect of a debt where the liability for the debt is admitted and the only question to be determined is the time and mode of payment. All those proceedings will be excluded from the legal aid scheme and including any proceedings which are incidental to any of those I have just mentioned.

The Lord Chancellor will be empowered by regulation from time to time to add or bring within the Scheme any proceedings he may think fit, provided that he does not add proceedings before a court or tribunal where the legal profession has not a right of audience, and provided that he first obtains the authority of both Houses of Parliament for the inclusion of those additional proceedings.

Who are to receive the benefits of the Scheme? They will be known as assisted litigants, and they will require to have two qualifications before they will obtain a Civil Aid Certificate. First of all, they will have to satisfy a committee of lawyers that they have reasonable grounds for bringing, defending or being a party to the proceedings. Secondly, they have to satisfy not a committee of lawyers, but the National Assistance Board that they are within that section of the community whom this Scheme is designed to

assist, namely, that they are persons with, in the words of the Bill, "a disposable income not exceeding £420 a year"; and there is a proviso that if they have capital in excess of £500 and appear to be able to afford the whole costs of their proceedings without recourse to the Scheme, than they may be refused legal aid.

I am profoundly glad to say that the certification of the disposable income and capital of applicants for a Civil Aid Certificate is not to be the responsibility of the legal profession. The Council have said that they wanted to have nothing whatever to do with it: that it was not a lawyer's function to decide whether or not, by reason of his means, any particular member of the public came within the Scheme. There is no reason why we should provide any member of the public with an opportunity for saying that, having been entrusted with the administration of this great Scheme, we are keeping perfectly worthy people out of it. We have said it is entirely for a non-legal body to determine whether or not any person comes within the Scheme by reason of his means, and the body which is to determine that is to be the National Assistance Board. They will be empowered to make regulations, which will cover the question of how one is to compute the income and capital of applicants; for example, what is to be done about people with fluctuating incomes, whether any particular sum is to be treated as income or capital. But the regulations will provide expressly that the subject-matter of the dispute is not to be deemed to be part of the applicant's own assets.

The figure of £420, which has been fixed as the upper limit of the disposable income, is arrived at after deduction from the applicant's gross income of a number of payments. There will first be deducted all payments which by Statute are left out of account in determining payments made by the National Assistance Board, for example, maternity benefits, sick pay, disability pensions, and things of that description. Secondly, there will be omitted an allowance in respect of each child of the marriage, of an equivalent amount to that which is now paid by the Assistance Board for the maintenance of such child. Thirdly, and perhaps most important, there will be deducted from the gross income,

income tax, rates, in certain cases rent, interest on loans, and other payments which people have to make. This means that at the present standard rate of income tax, there will come within the scope of the Scheme persons with a gross income of up to £700 or £750 a year.

Every assisted litigant after applying for a certificate, and after satisfying the Legal Committee, to which I shall presently refer, that he has reasonable grounds for bringing or defending proceedings, will have his means assessed and, according to that assessment, will be required to contribute or not, as the case may be, towards his own costs. His contribution may be made in one lump sum or, possibly, by instalments. The amount of his contribution out of income will be calculated according to a formula which it is extraordinarily difficult to put shortly into words. I will try to explain it. The assumption will be made by the National Assistance Board that any man with a disposable income—and may I say here, when I refer to "man" I also include "woman"—any man or woman whose disposable income does not exceed £3 a week—£156 per annum—is deemed to be able to afford nothing. Beyond that figure he will contribute half of the difference between that figure and the actual amount assessed as being his disposable income, subject, in the case of a married man, to a wife's allowance of £52 a year. May I illustrate that? Assume that a married man applies for a certificate, with a disposable income of £308 a year, exclusive of his wife's allowance of £52, then his disposable income is in fact £256 per annum. Had it been £156, he would have paid nothing. The difference between £156 and £256 is £100. His maximum liability for his own costs is one-half of that figure, that is to say, £50. If the proceedings are comparatively cheap and the bill is less than £50, he would pay the whole costs himself. If they go on appeal to the House of Lords and the costs rise, even, say, to £2,000 or more, he will not be required to pay more than the £50 maximum contribution, and any balance will be found by the State.

As regards capital, he will also be assessed and required to contribute, in the case of a single man all capital over £75 and

of a married man all capital over £150. There will probably be included under regulations to be made, the recommendation contained in the Rushcliffe Committee's Report, that capital should exclude his furniture and tools of trade and his occupied house. Those will not be reckoned to be part of his capital assets, but the Rules will, no doubt, provide that special consideration should be given to the case of a person having, for example, an unencumbered house, or a policy of insurance, or a reversion upon which money could quite easily be raised—just as there will have to be special consideration given to the case of a person who relies for his livelihood, perhaps wholly or in part, upon income derived from capital. The principle is, as the Rushcliffe Committee said, that a person should not be expected to make a payment towards his own costs if the effect would be materially to diminish an already exiguous income. But, on the other hand, if there are substantial sums of money available, he should not expect to get his legal representation free of cost to himself and at the expense of the tax-payer.

Applicants will be required to complete a Form of Application, and the Bill provides that any assisted litigant who wilfully fails to comply with the regulations, or who supplies false information, will be liable to a fine of £100 or three months imprisonment, or both.

Now I come to the work and organization of the Profession under the Scheme. It is proposed that the legal work should be done by solicitors and counsel in general practice, and that there should be a number of panels for different classes of professional business. There will be a panel for business in the Supreme Court, Privy Council and the Court of Appeal, other than Divorce. There will be a second panel for divorce work. There will be a third panel for County Court work and, in respect of the County Court panel, it will be possible for solicitors to specify named County Courts in which they will be prepared to appear; so that the fact that you are on a County Court panel will not involve you, if you practise in London, having to travel to, say, Grimsby.

So far as the Bar are concerned, they have rather a separate difficulty over the County Court panel, and they propose to divide that panel into three, based on the amount of the claim. There will be one panel for claims up to £X, a second one for claims of between £X and £Y, and a third one for claims exceeding £Y; so that the member of the Bar who is not accustomed to go into court for a fee of less than, say, 10 guineas can, if he likes, go only on to the top panel, and the young man may go on the bottom or the middle, or all three. Otherwise, probably the leaders of the Bar would always be briefed in all County Court cases and the young man would not come in at all or, alternatively, the leaders of the Bar would stay off all the County Court panels, and we should not get the best men who are now doing it, giving their services on the panel.

There will be yet another panel for Magistrates' Courts and a special panel for London Agency work. I should stress here that the Council very much hope that all solicitors and, particularly, the leading practitioners, will go on the panels; but, on the other hand, I want to make it quite clear that it is entirely optional for the profession whether they go on—either solicitors or counsel—just as it is optional for the public whether they come within the Scheme or not.

Where a solicitor does go on the panel, he will go on in his own name, but the certificate will be issued in the name of his firm, so that the firm may transact the work exactly as they would if they were instructed in an ordinary case by any other client. A solicitor may go on all or any of these panels, and there is no objection whatever to his going on panels in adjacent areas—to which I shall come presently—if he wishes to do so.

The business to be done is all the ordinary work which is performed for litigants for whom you normally act. The certificate will cover the work of negotiation and all work you do preliminary to proceedings, and with a view to the compromise of an action, provided, of course, that the certificate has first been issued before you do the work.

The special duties of a panel lawyer are not terribly severe.

They will be expected not to pick and choose the cases which they are going to accept. If you go on the panel you will be expected normally to accept instructions from a panel client, though you will be able, if you have good reason, to decline to accept instructions in any specific case. You will be expected to report to the committees any change in your clients' means, exactly as is now done in Poor Persons' cases. You will be expected to assist in enforcing orders for payment of costs recovered by your panel clients, and you will be expected to report in due course the result of the proceedings you take. You may at any time retire from the panel, if you wish to do so, and the only obligation on you in that event will be to bring to a conclusion any cases which may be pending in your hands.

The Bill provides, as it has to do unfortunately, for the removal of a solicitor or counsel from the panel. It was thought that there may be cases where a member of the legal profession does something, perhaps not amounting to professional misconduct which would be calculated to bring the whole procedure into disrepute; for example, gross neglect of an assisted client's business. In that event there will be a special inquiry held by, so far as solicitors are concerned, a tribunal consisting of the President, three members of the Council and the Lord Chancellor's representative and, so far as a member of the Bar is concerned, it will consist of the Chairman of the Bar Council, three members of the Bar Council and the Lord Chancellor's representative. But I do not expect that much, if any, use will be made of that procedure; it is there as a precaution and to prevent the Scheme being brought into discredit by one or two isolated practitioners.

It is certainly intended under the Scheme to interfere as little as is really possible with the normal relations which exist between client, solicitor and counsel. The client will be at liberty to select any solicitor he likes, provided he is on the appropriate panel, to act for him. He is also to be at liberty, in the usual way, to pick his own counsel on the panel. The London Agent will be selected from among those on the panel, again as is usual, by the solicitor.

I have said already that you may refuse, if you wish, to accept

any particular client for good reason. There may be excellent reasons. You may have declined to act further for him previously in your private practice, and in that case you will not be expected to act for him under the panel scheme. You may have so much panel business that you cannot take on any more, and that again would be a good reason, no doubt, for declining to accept more panel business. But you ought not to pick and choose your cases and only take the nice straightforward and easy ones—if there are any—and reject the others.

There are, unfortunately, certain exceptions which are inevitable to the ordinary relationship between solicitor and client. First of all, briefs will be delivered unmarked. The reason for that (to which I shall come presently) is that counsel's fees will be marked by the Taxing Officer on the brief at what the Taxing Officer regards as being the normal fee for that particular class of cases, having regard to the work involved and its complexities, and counsel will be paid in due course a proportion of that fee so marked. You will not be allowed to make Interlocutory Appeals without the consent of the Area Committee, to which I shall also refer presently. For an ordinary appeal, a new certificate altogether will be necessary. Permission must be obtained before two counsel may be briefed in an assisted litigant's case, and no expert witness may be called, or fee fixed, without the permission of the Area Committee. It is really essential that public funds should be preserved in this class of case, so that we do not have, say, a number of medical experts on one side and the other, all paid at the expense of the State. Provision is therefore made that expert witnesses must be approved—their number and the fee to be paid to them must first be approved by the Area Committee.

You will be expected to give notice to all other parties in the litigation that your client is an assisted litigant, and no payment will be made to you direct by the assisted litigant in any case. On the other hand, I am glad to be able to tell you that you will not be expected to finance the disbursements out of your own pockets, and that you will be entitled to receive from time to time from the Area Committee sums on account of disbursements to be in-

curred, if you make application for them and the committee are satisfied that they are reasonably likely to be incurred.

The remuneration of the profession will be as follows: In the High Court the profession will be paid disbursements in full, and solicitors will get 85 per cent. of their solicitor and client costs as taxed. Counsel will receive 85 per cent. of the fee as marked on the brief by the Taxing Master. In the County Court there will be a new scale of charges. The Rushcliffe Committee accepted the evidence given to them that the present scales of County Court remuneration were quite inadequate, and they recommended that there should be a new scale which would give reasonable and fair remuneration to practitioners doing County Court business. We are hopeful that the new scale will be a fair one to the profession, and will make the work worth doing. The Bill provides that the profession will receive the full scale charge for County Court work.

For work in the Criminal Courts, I am glad to say that it has been conceded that the existing scales are totally inadequate, and in future the profession will be remunerated according to the work they do on the ordinary basis.

I want to say next a few words on the subject of divorce, because there are special provisions regarding divorce. First of all, preliminary inquiries will have to be made at the expense of the litigant himself, that is to say, all inquiries which have to be made in order to establish a *prima facie* case for a certificate. Once a certificate is issued, any further necessary inquiries which have to be made in order to complete the case for presentation to the court, will be paid for in the ordinary way when the costs are paid, but those early preliminary inquiries will not be paid for out of the Legal Aid Fund. Secondly, the Bill provides that the incomes of husband and wife shall normally be aggregated, but it is provided that if there is no reasonable likelihood of a wife recovering more than a small contribution towards her costs, then the committee may, without aggregating the incomes of husband and wife, issue a certificate enabling the wife to proceed on the basis of her own income only; but if they do think there is a chance

of more than a small contribution being made by the husband, then the committee will limit the certificate issued in the first case to such proceedings as are necessary to obtain and enforce an order for security for costs.

Finally, it is proposed that the divorce causes of persons who are assessed as being unable to afford more than £10 towards their own costs, should be undertaken by a Divorce Department of The Law Society, on the lines of the present Services Divorce Department.

Now, I know, at first sight, that there may be criticism of this provision. It may be said that it is depriving the profession of work that they might legitimately expect to receive. On the other hand, the people who are coming within this limit will be contributing not even enough to pay their own disbursements. They will be contributing nothing towards the profit costs at all and they are, broadly speaking, people for whom in the past, under the Poor Persons Procedure, the profession has acted not only for nothing but, in divorce cases, at an average cost to themselves of about £15 a case. It was felt that, as the profession is now getting remunerated for business which it has to a large extent conducted at a loss in the past, it ought to make as a profession a contribution towards the Exchequer under this Scheme, and do the Poor Persons' divorces at as low a cost to the State as can reasonably be secured. That is why this compromise arrangement has been reached, whereby the divorces of the very poor will be conducted by the Divorce Department, but those, I hasten to add, who contribute more than £10 will, as in all other litigation, be conducted by solicitors in general practice.

ADVICE

Now we come to the Advice Scheme. This is, as I have said, an extension of the Poor Man's Lawyer system. At the present time there are some very efficient Poor Man's Lawyer centres in London, Birmingham, Manchester and other big towns, but there are very wide sections of the country where there are really no Poor

Man's Lawyer facilities at all, or where such facilities as there are are quite inadequate. The proposal is that in all big cities there should be a Legal Advice Centre, where members of the public may get advice morning, afternoon and, if necessary, in the evening. In smaller towns, or in large villages, it is intended that there should be morning, afternoon or evening sessions, on one or more days of the week, and that there will be a circuit system of legal advisers—I do not know whether to call them peripatetic or itinerant lawyers, I do not know which is the worse term—who it is proposed will go round on circuit giving advice, as the needs of the particular locality may require. In very remote districts, arrangements will be made, in an emergency, for someone who is perhaps bed-ridden and cannot get to a Poor Man's Lawyer centre, to be seen by a local practitioner. The majority of these legal advisers will be employed by The Law Society, either whole-time on a salary, or part-time on a sessional basis at so much a session, for giving legal advice.

The advice which is to be given will be oral advice on legal questions. It will not include conveyancing or probate work. It will not cover negotiations and it will not involve writing letters. It will include help for applicants in filling up their Form of Application for a Civil Aid Certificate and, we hope, in that way, these Forms of Application may become a trifle more intelligible to the Committees than the Poor Persons' applications have been in the past. The legal adviser may also—Heaven help him—have to advise on Scots and Irish Law, if and when reciprocal arrangements are made in those countries, and it seems to me that that opens up a wonderful vista of actions for negligence for years to come! The Scheme will also provide for legal advice to be given to members of the Armed Forces of the Crown serving overseas, so that it is possible and, in fact, probable, that we shall have a branch office in, say, Singapore and—I hesitate to talk about the British Empire nowadays, but anywhere in the world—wherever any substantial number of British troops may be stationed we may have to give legal advice.

Members of the public will not be required to submit them-

selves to any means test to obtain legal advice. It was thought by the Rushcliffe Committee that a means test would involve far too complicated and expensive an administrative machine to be worth it, but the legal adviser will be empowered and instructed to refuse to give legal advice to any person who he considers can consult and pay a solicitor in the ordinary way. On the other hand, he will be instructed to waive the nominal sum of 2s. 6d. in the case of any person who he thinks cannot afford even that. I hasten to add that it is proposed that there should be a 2s. 6d. fee paid by every person for every interview. That is not a fee paid to the legal adviser. It was arrived at by the Rushcliffe Committee after long thought, because in the Poor Man's Lawyer centres now, as a general rule there is a box in which people are invited to place contributions towards the administrative expenses. Some of them ask for a shilling, others 2s. 6d. or more. It means that those who seek the advice are not asking a charity; they are making a contribution towards the administrative cost, and it does produce in half-crowns quite a substantial sum, as many of the Poor Man's Lawyer centres have found. It means also that probably those who are advised attach slightly more importance to the advice which they get than they might otherwise do. It is extraordinary how paying for something seems to add to its value.

We hope that we shall have under the Advice Scheme the very full co-operation of the Citizens' Advice Bureaux. We hope they may put at the disposal of this advice organisation perhaps an interviewing room where the legal adviser can be consulted in the different boroughs in London and different villages in the country, and they may even assist by weeding out the sheep from the goats and restrict the inquiries to legal matters, rather than purely domestic problems. We hope that with their help it may be possible to avoid queuing, or anything of that sort, and that they may book appointments in advance and keep our head offices notified of the number of applicants seeking legal advice, so that we can control and administer the Scheme with the least possible waste of man-power at the various advice centres.

ADMINISTRATION OF THE SCHEME

The administration of this Scheme is to be provided for by the Scheme to which the Bill itself refers to be drawn up by The Law Society, subject to the approval of the Lord Chancellor and the Treasury. The Scheme will be made, and it may subsequently be varied or revoked by a committee on which there will be representatives of the General Council of the Bar. The Law Society proposes to administer this Scheme through Committees, and the profession will be responsible for its efficient administration, subject, in the words of the Bill, to the general guidance of the Lord Chancellor.

It is intended that the country shall be divided for administrative purposes only into 12 areas and, very roughly, they will coincide with the Regional Defence Areas that we knew during the war. This particular area, London, will be the City and County of London, Middlesex and those parts of Essex within the Metropolitan Police District. In each area, the real responsibility is to be placed quite squarely upon the Area Committee. There will be in every area an Area Committee of 15, of whom 12 will be solicitors and three barristers. They will be appointed, as regards the 11 Provincial Areas, by the Council here, on the advice of the grouped Law Societies within each area. Unfortunately, in London there are no grouped Law Societies to advise, and the Council have considered that probably the best way to select the Area Committee would be for the Metropolitan Vacancies Committee of the Council to join with the gentlemen who have sat as chairmen of the Poor Persons Committees in London, and select representative men who can start off as the first Area Committee for the London Area.

Those selected for the Area Committee must have obviously a good knowledge of litigation, and the Area Committee must collectively have a knowledge of the legal aid and legal advice requirements of the whole area which they are to serve. The importance of the qualifications, I think is illustrated best by my

mentioning the principal functions of the Area Committee. They will have, first of all, to decide where the Local Committees are to be placed, and I will come to Local Committees in a moment. They will have to appoint the members of the Local Committees. They have to consider appeals from the refusal of a Local Committee to issue a certificate. They will have to authorise Interlocutory Appeals. They will have to authorise the employment of two barristers. They will have to decide whether any, if so, how many, expert witnesses should be called in a case, and what would be a reasonable fee to pay them. Where there are no taxation arrangements, They may have to assess and to pay a fair fee for work done, possibly, for example, before Coroners' Courts. They will have to keep in their office a list of the panels. They have to be responsible for the organisation and administration of the Advice system throughout their own areas; and they have, what I think is perhaps the worst job of the lot, to try at the end of each year to budget for what the Scheme is going to cost next year. I am glad to tell you that they will receive, not very much but, at all events, some remuneration for their services. They will receive their out-of-pocket expenses and a fee paid to them on a sessional basis for the work they do as a committee. They will not be expected to do the whole of this work themselves in their spare time, but there will be a headquarters building and a staff put at their disposal under a principal officer, who will be the Area Secretary, whose duty it will be to act in accordance with the decisions of the Area Committee.

Under the Scheme, the Area Committees throughout each area will have to appoint Local Committees, upon which also solicitors and counsel will serve. There may be as many people as will volunteer on any Local Committee, but the Local Committee will sit in panels of five (with a quorum of three) to be called "certifying committees," to decide in each case whether or not to issue a certificate. The limit of five is put on so as to effect some safeguard against what might otherwise cause a heavy drain on the national exchequer, because members of the local panel will

also be remunerated on the same basis as the Area Committee for the time they spend on committee business. Their particular function is to decide whether or not there are reasonable grounds for bringing, defending or being a party to the proceedings. They will have power, as I have said, if the disposable capital of any applicant is over £500 and they think he can afford to pay the whole costs himself, to refuse a certificate even though the income of the applicant brings him within the scope of the Scheme. Furthermore, they will have a discretion to refuse a certificate altogether even if in their view there are reasonable grounds for bringing proceedings if they consider that in the particular circumstances of the case it is unreasonable that that particular matter should be litigated at the public expense. They will decide how the contribution is to be paid, whether in a lump sum or by instalments, and, if the latter, of what amount and when payable. There will be power for them to delegate to their secretary the task of issuing in an emergency what will be called an emergency certificate, in case someone applies for a certificate to be represented, usually no doubt as a defendant, at a very early date, and there is not time for the committee to meet and consider the case on its merits. Provision will be made as I have said for the Local Secretary to issue an emergency certificate, which will have the effect and force of a full certificate, until such time as the committee have met to consider the case, and after assessment of means in the ordinary way, have issued a normal certificate.

At The Law Society there will be the Legal Aid Committee, a standing committee of the Council, of which Mr. Littlewood, who has kindly come here to-night to preside, is the Chairman. On that committee there are to be three representatives of the General Council of the Bar and one representative of the Lord Chancellor. Their functions will be generally to supervise the work done by the twelve Area Committees so as to ensure so far as possible uniformity of action. They have to prepare the annual estimates, to deliver to the Lord Chancellor the annual accounts and an annual report. They have to allocate to each area its block

grant out of which the costs and disbursements are to be paid, and, as I have said, they may occasionally have to consider some specific complaint against a practitioner.

The Bill provides in addition for one other committee, namely, the Lord Chancellor's Advisory Committee, which may be said, broadly speaking, to represent the "consumer interest." The Bill suggests that those to be appointed to this committee by the Lord Chancellor should be selected having regard to their knowledge of legal procedure and of social conditions, and no doubt the majority of those people will be laymen and not lawyers. Their function will be, under the Bill, to report to the Lord Chancellor each year upon the annual report on the Scheme delivered by the Council to the Lord Chancellor and in addition they will be required to advise the Lord Chancellor from time to time upon any matter which he himself may refer to that committee.

FINANCIAL PROVISIONS

The financial arrangements under the Bill are as follows: The Lord Chancellor will make each year a block grant to the Law Society, to be paid into an account which will be entitled the Legal Aid Fund. There will be paid into the Legal Aid Fund in addition all sums contributed by the assisted litigants themselves, all sums which are recovered in costs on behalf of assisted litigants, and all fees paid at the Advice Centres. There will be paid out of the Legal Aid Fund every payment that has to be made for the purposes of this Scheme. The Bill provides for accounts to be kept in a form to be approved by the Controller and Auditor-General, and for estimates to be delivered each year. There is also included in the Bill a complete indemnity for The Law Society's own funds against any claims whatever arising as the result of this Scheme being administered by The Law Society. Therefore, members may rest assured that their subscriptions will not be applied for the purposes of the fund. They will not be applied even to finance it temporarily, but payments will be made to the Society into the Legal Aid Fund in advance,

and the Society's moneys will not be used for the purposes of financing this Scheme.

Ladies and gentlemen, the introduction of this Scheme will mean that there is an end of the Poor Persons Procedure as we have known it. Provision will be made for all the moneys received on account of Poor Persons to be paid into the Legal Aid Fund. There will be an end of *in forma pauperis* procedure and probably of the old system of dock briefs.

I think it is almost inevitable that on the passage of this measure through Parliament there will be controversy on a number of points. There will be those who say that the means test is too low, and those who say that it is too high. I would not quarrel with anyone who said that brave would he be indeed who embarked on High Court litigation with an income of £700 a year. Therefore any such person may no doubt say that the limit ought to be raised. On the other hand there will be many people employed in administering the Scheme who are themselves in receipt of an income of less than that figure. I do not say that that is a reason for cutting it down, but I do say it is a reason for not raising the income very much higher. My personal feeling is that, having an extremely difficult duty to discharge, the Rushcliffe Committee, I know after long deliberation, have probably reached a very fair and reasonable compromise in arriving at this particular limit.

There will be criticism, I have no doubt, of the provision which is made for the case of an unassisted litigant who is successful where proceedings are taken against him by an assisted litigant. The Bill provides that where an assisted litigant under the Scheme is unsuccessful, then as regards the costs of the other side which he would normally under the indemnity rule have to pay, he shall pay such sum only as the judge after considering a statement of the financial position of the assisted litigant may think fit and proper in all the circumstances, and that Order shall be enforced only as the judge directs. No doubt there will be many who think that if proceedings are brought against you at the expense of the State and you win, the State ought not to

expect you to foot the bill for your own costs. On the other hand, the fact that an individual and not the State may be out of pocket may be a factor in making the certifying committees even more careful before they issue a certificate; and it must also be remembered, I think, that at the present time under the Poor Persons procedure a successful person concerned in Poor Persons' litigation cannot, except in very exceptional circumstances, recover a penny piece against the poor person. So the public will be better off in future and they will be no more at risk than they have been under the Poor Persons procedure. This, I think, is a policy question which Parliament will have to decide, and time will show what decision is taken.

Then I have seen in the Press criticism of the fact that only oral advice is to be given at the advice centres. Of course, one sees how easy it would be to allow the advisers to write letters and negotiate and so forth, if you have a staff in a big central office; but where you have peripatetic advisers going round and sitting for two hours, let us say at St. Ives, without a book, without a typewriter, with no staff, and having to fit into a circuit on a scheduled time basis, allowing so long for each interview, it would really, taken by and large, certainly at the outset of the Scheme, make it extremely difficult to plan the circuit system. I think that there are good reasons why, at all events at the outset, there should not be put upon the legal advisers more than merely giving oral advice and help in filling up forms of application.

There may be criticism of the fact that there is no lay representation on the Area and Local Committees. This is a matter upon which the Council and the General Council of the Bar jointly feel very strongly indeed, and I have not found a single audience of lawyers who did not support the Council's view of this matter. The Council feel that it is absolutely essential under this or any scheme that the confidential relationship which exists between solicitor and client should be maintained at all costs, and it would be quite wrong that a solicitor on a panel should have to disclose his client's case to a committee upon which there was a layman serving who would not be bound by the profession-

al rules of secrecy, and who would not be subject in the event of his disclosing confidential information to disciplinary proceedings to which solicitors and members of the Bar are subject. We think it would be almost inevitable that, sooner or later, facts which might be ruinous for someone if they came out, will be disclosed to an Area Committee, for example, allegations made on the form of application against somebody perhaps in a divorce case; the Local Committee reject the application on the ground that there is no *prima facie* case, and on appeal those allegations come before an Area Committee. Lawyers would not even notice the names of the people concerned. The most startling facts in a divorce case would create practically no impression on their minds as they are dealing with these cases every day, but on the contrary they would be bound to impress the mind of a layman, and it might well be that there would be leakages of confidential information with the result that the public might get the impression that their confidences would be disclosed, which would be disastrous for the success of the Scheme. The Council have taken a very firm line indeed on this. They think that the consumer interest, if I may so call it, is best represented there on the Lord Chancellor's Committee, and I may add it is represented, in addition, by the National Assistance Board. In the past the legal profession has had not only to decide whether there is a *prima facie* case in Poor Persons matters, but whether a man came within the means limit or not. In future, the legal profession will have nothing to do with determining the means limits; that will be decided by a lay tribunal.

Finally, I myself have a criticism of this Scheme; I make it entirely personally and may get into trouble for doing so. I think the criminal side of the Scheme has a flaw in it, in that it departs from the basic principles underlying the whole Scheme. The basic principle, as I see it, is that in the interests of justice everyone should be legally represented. If he can afford to pay nothing he gets his representation free; otherwise he pays what he is assessed as being able to afford. That is what happens on the civil side, but on the criminal side the public are not to be deemed

in the interests of justice to be entitled to be legally represented. They will only get legal representation if the Bench decides that it is in the interests of justice that they should get it free. In other words, if you are entitled to free representation in the view of the Bench, you will get it free; but if you are not entitled to it free you will not get it at all, except entirely at your own expense. I think that is a basic flaw. I think that both sides of the Scheme should be based on the same principles. I think that both civil and criminal parts of the Scheme could quite easily be brought into one scheme, and it may be that some day that amendment to the Scheme will be made. But I would like to say here that these examples of criticism show that it is very easy to criticise any big scheme of this sort on any one of a number of points; it is all too easy. I personally, most sincerely hope that whatever our personal objections to perhaps minor points of this Scheme may be, we shall not stick out against the majority of our own colleagues, but that we shall be completely united in accepting the view of the majority, stand together as one profession and adopt the Scheme as a whole however it may ultimately emerge, and work it to the best of our ability with all its great advantages for the public. What are those advantages?

First of all, when persons come within the Scheme they will know from the very beginning what is their maximum liability for their own costs. They will know also that, after having satisfied the committee that they have reasonable ground for proceeding, if they are still unlucky and do not win, there is the safeguard in the Bill that as regards the costs of the other side, they will only have to pay such sum as the judge, after carefully reviewing their financial position, may order. I think those are the two very great advantages from the point of view of the public.

From the point of view of the profession, you will get relief from the conduct of Poor Persons procedure cases. You will get a very substantial number of State guaranteed clients, conceding in exchange 15 per cent. of your solicitor and client costs. You will get, I am convinced myself, a good deal of subsidiary work outside the Scheme. I believe that very many people who have

never consulted a solicitor before will come into your offices, and I believe that they will be immensely impressed by the help which they get from putting their problems to you at an early date and acting on the very good advice which you solicitors give up and down this country day by day. I think they will bring to their probate work and conveyancing work, and like all good clients should, when their business has prospered and they have passed outside the scope of the Scheme, they will remain on with you and continue to come to you on a normal paying basis. Finally there is, I think, almost the most important advantage from our point of view, that the administration of this Scheme is to be in the hands of the legal profession itself. The profession is not to be nationalised, and I think that is one of the great features here. The fact that we are to administer this Scheme is a matter of congratulation for the profession, but it carries very big responsibilities. It means that if it fails it is due to us, the Area Committees, the Local Committees, and practitioners generally. It will not fail if it has the support of the whole of the profession. I believe most sincerely that there is no body of persons better able to administer the Scheme than solicitors. Our lives are spent administering the businesses of members of the public, and I am convinced that as a profession we can make a greater success of this Scheme than any other profession, or, indeed, any Government Department could ever hope to do.

I am quite certain that if there is whole-hearted support of the profession for this Scheme it will be an outstanding success. If it is a success, then a national scheme of this sort will redound to the great credit of this profession of ours of which I am so proud to be a member. I am sure that this great Scheme will be the envy of and create a precedent to be followed by other nations who believe, or may like to believe, that this old country of ours is no longer able to give a lead to the world.

The Library

SIDNEY B. HILL, *Librarian*

SELECTED MATERIALS ON THE LAW OF RADIO AND TELEVISION

The development of the law relating to radio and, more recently, television, presents once again an example of the strength and adaptability of the Common law. It is a further logical step in our legal growth from a pioneer and agricultural society to one that is predominantly industrial and commercial. Within the framework of "public interest, convenience and necessity", the law keeps abreast of all the technological advances which the scientific minds of this country produce.

To enable the members to trace the development of the law in this increasingly important field as well as to present the most recent works on the subject, this list of materials had been compiled. In addition to the titles listed, there are many governmental reports and hearings, proceedings of international conferences and the briefs and records in all important litigation before the state and federal courts available in the library.

Barnett, Sherman R. *Lanham Act and Radio*. 1947. 37 *Trade-Mark Reporter*. 254-60.

Berry, Tyler. *Communications by Wire and Radio*. Chicago, Callaghan & Co. 1937. 462p.

Brown, Louis M. *International Broadcasting, Its Copyright Aspect*. 1942. 15 *Southern California Law Rev.* 164-86.

Brown, Thad C. *The Regulation of Broadcasting in the Public Interest*. Address delivered at the Harvard Faculty Club, August 4, 1939. mimeographed. 16p.

Conrad, Edwin. *Economic Aspects of Radio Regulation*. 1948. 34 *Virginia Law Rev.* 283-304.

Davis, A. G. *Parliamentary Broadcasting and the Law of Defamation*. 1948. 7 *Univ. of Toronto Law Journal*. 385-94.

Davis, Warren J. *Radio Law*. Los Angeles, Parker, Stone & Baird Co. 1929. 389p.

De Wolf, Francis C. *Atlantic City Telecommunication Conference*. 1947. 17 *Department of State Bulletin*. 1033-41.

Dill, Clarence C. *Radio Law, Practice and Procedure*. Washington, D. C. National Law Book Co. 1938. 353p.

Doering, Edward A. *Federal Control of Broadcasting versus Freedom of the Air*. Washington, D. C., Georgetown Law School. 1939. 56p.

✓ Donovan, William J. *The Origin and Development of Radio Law*. New York, N.Y.U. School of Law. 1930. 59p.

Federal Communications Bar Journal. Washington, D. C. Federal Communications Bar Ass'n. 1937-39.

Federal Communications Commission. *Investigation of Chain or Network Broadcasting, Monopoly in the Broadcasting Industry and Related Matters*. National Broadcasting Co., Inc. 1940-41. 146p.

Federal Communications Commission. *Public Service Responsibility of Broadcast Licenses*, Report by F.C.C., March 7, 1946. Washington, D. C., Federal Communications Commission. 1946. 59p.

Federal Communications Commission. *Radio, A Public Primer about Spectrum, Emissions, Frequencies, Broadcast . . . Call Letters, Distress Calls, Interference, Policing the Ether, No "Censorship."* Washington, D. C., Federal Communications Commission. 1941. 24p.

Federal Communications Commission, *Regulations Affecting Chain Broadcasting, Contrary Views on their Legality*. 1941. *Air Law Rev.* 301-316.

Federal Communications Commission's *Investigation and Regulations Affecting Chain Broadcasting*. 1941. *12 Air Law Rev.* 187-203.

Fenwick, Charles G. *The Use of the Radio as an Instrument of Foreign Propaganda*. 32 Am. Journal of International Law. 1938. 339-43.

Fischer, Henry G. and others. *Pike and Fischer Radio Regulations*. Washington, D. C., 1948. 4 vols. Current loose leaf supplements.

Freedom of Discussion of Controversial Issues Over the Air. 1941. *12 Air Law Rev.* 372-78.

Frequency Modulation, Order by the Federal Communications Commission Authorizing such Broadcasting. 1940. *11 Air Law Rev.* 316-18.

Friedrich, Carl J. and Sternberg, Evelyn. *Congress and the Control of Radio-Broadcasting*. 1943. *37 Am. Political Science Rev.* 797-818, 1014-26.

Government Control of the Content of Radio Programs. 1947. *47 Columbia Law Rev.* 1041-52.

Greco, Cyrus A. *Copyright Protection and Radio Broadcasting*. 1940. *3 Louisiana Law Rev.* 200-211.

Hettinger, Herman S. ed. *New Horizons in Radio*. 213 *Annals of the Am. Academy of Political and Social Science*. 1941. 253p.

Hettinger, Herman S. ed. *Radio, The Fifth Estate*. 177 *Annals of the Am. Academy of Political and Social Science*. 1935. 301p.

*Homburg, Robert. *Legal Rights of Performing Artists*. New York, Baker, Voorhis & Co. 1934. 184p.

Hood, William F. *Classification of Radio Defamation, Liability of Broadcaster*. 1941. *39 Michigan Law Rev.* 1002-10.

* Not in Library.

International Commission for Air Navigation. *Regulations for the International Radioelectric Service of Air Navigation*. Washington, D. C., U. S. Gov't. Printing Office. 1938. 31p.

International Telecommunication Conferences, Atlantic City, N. J., May-Oct., 1947. Washington, D. C., U. S. Gov't. Printing Office. 1948. 192p.

Jaccottet, Georges. *Le Droit d'Auteur et les Emissions Radiophoniques*. Lausanne, Imprimerie T. Geneux 1935. 193p.

Journal of Air Law. Chicago, Northwestern Univ. Institute of Aeronautics. 1930-48. 15 vols.

Journal of Radio Law. Evanston, Ill., Northwestern Univ. Press. 1931-32. 2 vols.

Kadetsky, Ira and Kahn, Leroy. *Legal Problems of Radio Broadcasting Contracts*. 1940. 11 *Air Law Rev.* 154-69.

Le Roy, Howard S. *Air Law, Outline and Guide to Law of Radio and Aeronautics*. Washington, D. C., A. C. Mellichampe. 1936. 160p.

Linch, Leo L. *Copyright Law Applied to Radio Broadcasting*. 1943. 19 *Notre Dame Lawyer*. 19-30.

McManus, Martin J. Jr. *Federal Legislation Regulating Radio*. 1947. 20 *Southern California Law Rev.* 146-71.

Mance, Sir Harry Osborne. *International Telecommunications*. New York, Oxford Univ. Press. 1944. 90p.

Marchetti, Roger. *Law of the Stage, Screen and Radio*. Los Angeles, Suttonhouse. 1936 with supplements to date. 490p.

Miller, Neville. *Legal Aspects of the Chain Broadcasting Regulations*. 1941. 12 *Air Law Rev.* 293-98.

✓ Moser, Julius G. and Lavine, Richard A. *Radio and the Law*. Los Angeles, Parker & Co. 1947. 386p.

National Institute of Municipal Law Officers. *Radio and Municipal Regulations*. Washington, D. C., The Institute. 1945.

Otterman, Harvey B. *Legislative Aspects of Radio Control*. 1946. 20 *Temple Law Quarterly*. 73-84.

Pischke, Vail W. *Law of Insurance in Radio*. 1944. 19 *Notre Dame Lawyer*. 296-300.

✓ Pischke, Vail W. *Privacy in Radio, How Far Will the Law of Privacy Extend in Radio?* 1934. 19 *Notre Dame Lawyer*. 148-54.

Plotkin, Harry M. *Procedure Followed by the Federal Communications Commission in Passing Upon Applications for Radio Stations*. 1946. 17 *Pennsylvania Bar Ass'n Quarterly*. 291-95.

Radio Editorials and the Mayflower Doctrine. 1948. 48 *Columbia Law Rev.* 785-93.

Radio Program Controls, A Network of Inadequacy. 1947. 57 *Yale Law Journal*. 275-96.

*Radiobroadcasting Research Project at the Littauer Center. *Studies in the Control of Radio*, number 1. Cambridge, Harvard Univ. Press. 1940.

* Not in Library.

Richter, Joseph. *The Social Security Act as It Affects Radio Broadcasting.* New York, N.Y.U. School of Law. Contemporary Law Pamphlets, Series 1, no. 17. 1939. 16p.

Robinson, Thomas P. *Radio Networks and the Federal Government.* New York, Columbia Univ. Press. 1943. 278p.

Rodriguez, Elias C. *The Lea Act.* 1946. 35 Georgia Law Journal. 79-91.

Salsbury, Franklin C. *Transfer of Broadcast Rights.* 1940. 11 Air Law Rev. 113-43.

*Schmechel, Lawrence F. *The Federal Radio Commission, its History, Activities and Organization.* Washington, D. C., Brookings Institution. 1932. 162p.

Segal, Paul M. *Recent Trends in Censorship of Radio-Broadcast Programs.* 1948. 20 Rocky Mountain Law Rev. 366-80.

Segal, Paul M. and Spearman, Paul D. P. *State and Municipal Regulation of Radio Communication.* Washington, D. C., U. S. Gov't. Printing Office. 1929. 16p.

Socolow, A. Walter. *The Law of Radio Broadcasting.* New York, Baker, Voorhis & Co. 1939. 2 vols.

Solinger, David M. *Television and the Law.* Fortune. December, 1948. 161-62.

Solinger, David M. *Television Pickups.* Fortune. January, 1949. 130-32.

Sprague, Stuart. *More Freedom of the Air.* New York, N.Y.U. School of Law. Contemporary Law Pamphlets, Series 1, No. 26. 1940. 12p.

*Straschnov, Georges. *Le Droit d'Auteur et les Droits Connexes en Radiodiffusion.* Bruxelles, Établissements Émile Bruylants. 1948. 256p.

Summers, H. B. compiler. *Radio Censorship.* New York, H. W. Wilson Co. 1939. 297p.

Television, F.C.C. *Regulation, Commercial Debut.* 1941. 12 Air Law Rev. 378-82.

Tomlinson, John D. *International Control of Radio-Communications.* Ann Arbor, Mich., Edwards Bros. 1945. 314p.

U. S. Attorney-General's Committee on Administrative Procedure. *Federal Communications Commission Monograph No. 3.* Washington, D. C., Dep't. of Justice. 1940. 177p.

U. S. Congress, House, Select Committee to Investigate the Federal Communications Commission. *Final Report.* Washington, D. C., U. S. Gov't. Printing Office. 1945. 8op.

U. S. Congress, House, Select Committee to Investigate the Federal Communications Commission. *Study and Investigation of the Federal Communications Commission.* Washington, D. C., U. S. Gov't. Printing Office. 1943-44. 4 vols.

U. S. Congress, Senate. Committee on Interstate and Foreign Commerce. *To Amend the Communications Act of 1934.* Washington, D. C., U. S. Gov't. Printing Office. 1947. 671p.

* Not in Library.

Vann, Thomas K., Jr. Due Process and the Lea Act. 1947. 96 Univ. of Pennsylvania Law Rev. 135-36.

Vold, Lawrence. Defamatory Interpolations in Radio Broadcasts. 1940. 88 Univ. of Pennsylvania Law Rev. 249-96.

Warner, Harry P. Administrative Process of the Federal Communications Commission. 1946. 19 Southern California Law Rev. 312-48.

✓ Warner, Harry P. Radio and Television Law. Albany, N. Y., Matthew Bender & Co. 1948. 1095p.

Warner, Harry P. Transfers of Broadcasting Licenses under the Communications Act of 1934. 1941. 21 Boston Univ. Law Rev. 585-631.

Webster, Bethuel M. Our Stake in the Ether, an address under the auspices of the American Academy of Air Law. New York, N.Y.U. School of Law. 1931. 14p.

White, Llewellyn. The American Radio, a report on the Broadcasting Industry in the U. S. from the Commission on Freedom of the Press. Chicago, Univ. of Chicago Press. 1947. 259p.

DEATHS REPORTED SINCE OCTOBER 14, 1948

<i>Elected</i>		<i>Died</i>
1921	Charles G. Keutgen	January 3, 1948
1920	Richard Kelly	May 15, 1948
1926	R. Kinnaird Bissell	June 12, 1948
1943	Thomas P. Morrissey	July 4, 1948
1937	Lindsay Goeltz	September 7, 1948
1904	William R. Hill	September 23, 1948
1898	Augustus S. Houghton	September 25, 1948
1898	August Zinsser	September 26, 1948
1888	Lucius H. Beers	October 1, 1948
1906	Reid L. Carr	October 7, 1948
1924	George H. Terriberry	October 19, 1948
1893	Ralph S. Rounds	October 22, 1948
1893	Edward M. Bassett	October 27, 1948
1927	Frank R. Pentlarge	November 4, 1948
1930	William Deering Howe	November 7, 1948
1901	Edgar J. Lauer	November 9, 1948
1892	Ernest Lee Conant	November 28, 1948
1894	Severo Mallet-Prevost	December 10, 1948
1924	Lewis H. Van Dusen	December 10, 1948
1919	Lester Scott Kafer	December 22, 1948
1912	Victor H. McCutcheon	January 4, 1949
1926	John Lanman Galey	January 21, 1949
1905	Garrard Glenn	January 25, 1949
1917	Underhill Moore	January 26, 1949
1902	William Greenough	February 1, 1949
1904	Frank D. Arthur	February 7, 1949
1908	William L. Ransom	February 19, 1949



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